



# POLICY BRIEF

No. 9, August 2018

## Response to the Public Consultation 'Developing an Environment Strategy for Scotland'

Miranda Geelhoed

The integrated and inter-disciplinary research conducted by the **Strathclyde Centre for Environmental Law and Governance (SCELG)** seeks to address real-world knowledge gaps in partnership with government institutions, NGOs, private institutions and local communities. Our researchers hold considerable expertise in the fields of comparative, EU and international environmental law, with regard to, among others, biodiversity, land, food and agriculture, climate change and energy, water and oceans, as well as corporate accountability, environmental justice, human rights and sustainable development.

For more information, visit:

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## **Public Consultation: *Developing an Environment Strategy for Scotland***

### **Response from the Strathclyde Centre for Environmental Law and Governance**

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**Submission date: 23 August 2018**

#### **Questions**

##### **1. What are your views on the following draft vision for Scotland's environment and climate change policies?**

In summary, we recommend bold environmental aspirations that go beyond maintaining EU standards, to take into account Scotland's international responsibilities (including on human rights and the rights of children) and to show leadership on the basis of connections between global goals and local realities.

The Strathclyde Centre for Environmental Law and Governance (SCELG) welcomes the Scottish Government's recognition of the importance of environmental ambition in a time where much of our attention is focused on maintaining environmental standards in a Scotland post-Brexit. Indeed, although the commitment of the Scottish Government to protect, maintain and enhance EU environmental standards is important, we hope that its vision for "one planet prosperity", in recognition of the global significance of environmental protection and governance, allows for the development of policies that reflect bold environmental aspirations, also taking into account Scotland's international responsibilities such as those under the UN Sustainable Development Goals.

At the same time, it would be important for the vision to connect global aspirations to local realities, for it is often when environmental impacts and governance structures are perceived to be too remote that people do not feel empowered to take action and contribute to the discussion. In this regard, we recommend explicitly recognising the relevance of human rights, including procedural rights and the rights of children in Scotland's Environment Strategy (see for more details below).

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<sup>1</sup> SCELG PhD researcher.

This submission has greatly benefited from the inputs of our SCELG members and represents the views of the centre. In particular, the author would like to thank Prof Elisa Morgera, Julie Gibson and Mika Schröder for their helpful suggestions.

## **2. What are your views on the following draft outcomes that will help to achieve this vision?**

In summary, we recommend:

- Explicit connections between draft outcomes and sectoral and other cross-sectoral initiatives (e.g. Good Food Nation and agroecology) to ensure integrated management of land, water and living resources in light of the ecosystem approach;
- Explicit recognition of the importance of procedural human rights, in particular of vulnerable groups, local communities and children, adding an outcome: ‘Everyone feels informed and empowered to participate in environmental decision making and everyone has access to justice, to secure the full enjoyment of human rights that depend on a healthy environment.’

The draft outcomes listed above have a broad scope, but it is important to explicitly recognise the connections between them. Laws and policies, on international, EU and national levels, are increasingly stressing the significance of an ecosystem approach to environmental governance, which acknowledges the complex dynamics of plant, animal and micro-organism communities and their non-living environment. Integrated management of land, water and living resources for the achievement of the government’s overarching vision for one planet prosperity, requires the conservation of ecosystem functioning and resilience across different sectors (agriculture, fisheries, industry, tourism). The Environmental Strategy should be more explicit on how the vision informs and fosters interconnections between the different outcomes, to avoid conflicting actions and results.

Furthermore, it would be helpful to provide further details on how the Strategy and these outcomes relate to other initiatives by the Scottish Government, such as an “integrated future policy on agriculture, land use and environment” and other sectoral laws and policies. Two examples will be highlighted in this regard. Firstly, ongoing discussions regarding a Scottish Good Food Nation Bill already emphasise the importance of sustainability in food production. Agroecology has been highlighted as a framework for the development of legislation in support of ecological resilience, equity and diversity in farming and food production, by stakeholders and institutions on a national level (Scottish National Heritage, James Hutton Institute, Nourish Scotland) and an international level (Food and Agriculture Organization of the UN, Special Rapporteur on Human Rights). The Environmental Strategy provides an opportunity to support agroecological transitions in Scotland. Secondly, record numbers of tourists have recently highlighted the environmental impacts of economic prosperity, notably in remote areas such as the Highlands. The Environmental Strategy would benefit from explicit recognitions of its sectoral implications and underlying tensions.

Lastly, although the human-environment link is reflected in draft outcome 5 on access to nature, it implies a rather passive role for Scotland’s people that does not do justice to the crucial role of nature protection for the full enjoyment of human rights, such as the right to life, health, water and food and the connection, as recognised by the UN Special Rapporteur on Human Rights and the Environment and the SDGs. Procedural environmental

rights, as protected under the Aarhus Convention on access to information, public participation in decision-making and access to justice in environmental issues, to which the UK is a party, help to raise public awareness, increase the legitimacy of environmental decisions, facilitate accountability of government as regards environmental protection and enable improved implementation and enforcement of environmental law. We strongly recommend, particularly because of the risk of lower national standards for the implementation of the Aarhus Convention and the loss of a hard enforcement edge after Brexit, that procedural rights are reflected in the draft outcomes and that ‘Everyone feels informed and empowered to participate in environmental decision making and everyone has access to justice, to secure the full enjoyment of human rights.’ Particular attention should be given to the human rights of vulnerable groups, local communities and children that could be negatively affected by environmental degradation.

**3. What are your views on the draft knowledge accounts which will be used to help identify priorities for action in the coming years? What additional sources of key evidence can you add?**

Additional draft knowledge accounts that are key to obtain the draft outcomes:

- Integrated approaches, sectoral and cross-sectoral links
- Procedural environmental rights
- Public awareness and education

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Strathclyde Centre for Environmental Law & Governance  
Latest outcomes from our work

We wish to share our research findings in a variety of ways to reach out to different audiences. We not only publish academic books and articles, but also distil our research in a shorter and more action-oriented way for stakeholders (e.g., policy-makers and advocates). Among the latest outcomes of our work are the following working papers, policy briefs and dialogues:

### SCELG Working papers

C Wambua, Promoting Public Acceptance of Wind Energy Projects in Kenya: Towards a Wind-Wind Solution, SCELG Working Paper 10/2017

LS Lynes, Climate Change Law and Colonialism: Legal Standing of Three Rivers and a Hypothetical Case of Bison Personhood in Canada, SCELG Working Paper 9/2017

### SCELG Policy Briefs

M Geelhoed, Response to the Public Consultation 'Environmental Principles and Governance in Scotland', SCELG Policy Brief 11/2019

M Geelhoed, Response to the Public Consultation 'Good Food Nation Proposals for Legislation', SCELG Dialogue 10/2019

### SCELG Dialogues

F Sindico and K McKenzie, Human Rights Thresholds in the Context of Climate Change: A Litigation Perspective in the Wake of the IPCC Special Report on 1.5°C or the Week in which Everything Changed..., SCELG Dialogue 7/2018

F Sindico and S Switzer, The Transformation of Environmental Law and Governance: Risk, Innovation and Resilience, SCELG Dialogue 6/2018

Find out more at:

<https://www.strath.ac.uk/research/strathclydecentreenvironmentallawgovernance/ourwork/latestoutcomesfromourwork/>



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